

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JOSEPH STEWART,

Petitioner,

v.

Case No. 03-CV-75051-DT

HUGH WOLFENBARGER,

Respondent,

ORDER CONDITIONALLY GRANTING THE WRIT OF HABEAS CORPUS

This matter is on remand from the United States Court of Appeals for the Sixth Circuit. On November 9, 2006, the Sixth Circuit reversed this court's prior order denying the petition for writ of habeas corpus and granted the petition for writ of habeas corpus. The Sixth Circuit further ordered that this court enter an order requiring petitioner to be released from custody unless the State of Michigan commences a new trial within 180 days of the district court's order. *See Stewart v. Wolfenbarger*, 468 F. 3d 338, 361 (6th Cir. 2006). Accordingly,

IT IS ORDERED that the petition for writ of habeas corpus is conditionally granted. Unless the State of Michigan takes actions to afford petitioner a new trial within one hundred eighty (180) days of the date of this order, the State of Michigan shall release petitioner unconditionally from custody.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: March 28, 2007

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, March 28, 2007, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522